

**STATEMENT OF
THOMAS LASTOWKA, DIRECTOR,
DEPARTMENT OF VETERANS AFFAIRS REGIONAL OFFICE AND
INSURANCE CENTER, PHILADELPHIA, PA,
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND
MEMORIAL AFFAIRS, HOUSE COMMITTEE ON VETERANS' AFFAIRS**

JUNE 16, 2005

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on legislative items of interest to the Department of Veterans Affairs (VA). Accompanying me today is Stephen Wurtz, Deputy Assistant Director for Insurance.

H.R. 1618

H.R. 1618, 109th Cong., the "Wounded Warrior Servicemembers Group Disability Insurance Act of 2005," would create a Servicemembers' Group Disability Insurance program, which would provide an insurance benefit to servicemembers who incur certain severe disabilities. We do not support H.R. 1618 because it would duplicate the intent of the recently passed Administration bill that permanently establishes the traumatic injury insurance provided under 38 U.S.C. § 1980A, which was added to title 38, United States Code, by the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005," Pub. L. No. 109-13, § 1032, 119 Stat. 231.

Section 2(a) of H.R. 1618 would add a new subchapter V to chapter 19 of title 38, United States Code. New section 1992(a) of title 38, United States Code, would authorize the Secretary of Veterans Affairs to purchase a group

disability insurance policy or policies from one or more private insurance companies on behalf of members of the Armed Forces. New section 1993 would provide automatic insurance in the amount of \$50,000 for any person insured under Servicemembers' Group Life Insurance (SGLI), unless the servicemember elects in writing not to be insured under the new disability insurance program.

Under new section 1994, any of the following disabilities would be a "qualifying disability" for which insurance coverage would be provided:

(1) complete and permanent loss of movement of an extremity; (2) third-degree or higher burns affecting more than one square foot of the body; (3) entire, irrecoverable, and uncorrectable loss of sight of one or both eyes; (4) permanent loss of one hand, by severance at or above the wrist joint; (5) permanent loss of one foot, by severance at or above the ankle joint; (6) entire, irrecoverable, and uncorrectable loss of speech or hearing; and (7) any other disability specified by regulation.

Under new section 1996(a), premiums for disability insurance coverage would be deducted from a servicemember's basic or other pay, less any costs traceable to the extra hazards of duty, which would be paid from the appropriation for active duty pay of the uniformed services. New section 1997(b) would require that insurance settlements under the program be made in a lump sum.

Section 2(b) of H.R. 1618 would permit the Secretary to designate the effective date of the disability insurance but require that such date be not later than one year after the date of enactment.

Servicemembers' Group Life Insurance Enhancement Act

Section 2 of the draft "Servicemembers' Group Life Insurance Enhancement Act of 2005" would amend 38 U.S.C. § 1967(a)(3)(A)(i) to increase the maximum amount of SGLI and Veterans' Group Life Insurance (VGLI) to \$400,000, effective October 1, 2005, with respect to deaths occurring on or after that date. This provision would extend the increase to \$400,000 made by section 1012 of Pub. L. No. 109-13, which will terminate on September 30, 2005. VA supports enactment of section 2 of this draft bill because it provides the opportunity for servicemembers to increase insurance protection for their families.

Section 3 of this bill would, effective October 1, 2005, require the Secretary of the appropriate service department to notify in writing a servicemember's spouse or, if unmarried, the servicemember's next-of-kin whenever the servicemember: (1) declines SGLI coverage; (2) elects less than the maximum amount of SGLI coverage; (3) applies for SGLI coverage or for a change in the amount of such coverage; or (4) in the case of a married servicemember, designates someone other than his or her spouse or child as a beneficiary. Section 3 would also require, when an unmarried servicemember who is eligible for SGLI marries, that the Secretary of the appropriate service department notify the servicemember's spouse in writing as to whether the servicemember: (1) is insured under SGLI; (2) has elected less than the maximum amount of SGLI coverage; or (3) designated as a beneficiary a person other than the member's spouse or child. Failure to provide timely notification

would not affect the validity of any option elected by the insured. Except for the effective date, section 3 is identical to section 5(b) of H.R. 2046, 109th Cong., the “Servicemembers’ Health Insurance Protection Act of 2005,” which the House of Representatives passed on May 23, 2005.

Because this bill would not extend the current law that goes into effect September 1, 2005, but instead defines a new program that would start when the current program expires on September 30, 2005, there are a number of potentially difficult administrative challenges that would unnecessarily burden both servicemembers and the Government. For example, those members who elected less than the maximum coverage under current law and whose spouses consented would once again have to fill out the paperwork required to elect less than maximum coverage, and the Government would have to notify the spouse. The Administration would like to work with Congress to ensure that these issues are addressed.

We note as well that, under 38 U.S.C. § 1968(a)(1), SGLI coverage terminates 120 days after separation or release from active duty or active duty for training, unless the servicemember is totally disabled on that date, in which event SGLI coverage terminates one year after separation or release from active duty or active duty for training. Also, section 1977(d) of title 38, United States Code, states that “any designation of beneficiary or beneficiaries for [SGLI] filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for [VGLI], but not for more than sixty days after the effective date of the insured's [VGLI].” It is unclear whether the notification provision of

section 3 of the draft bill, which refers to a "member" of a uniformed service, would apply to any change in beneficiary designation that a servicemember would make within the 120-day period after discharge but prior to cessation of SGLI coverage or that a VGLI insured would make within the 60-day period referenced in section 1977(d). We also note that, if section 3 were applicable to VGLI beneficiary designations, it would be difficult to implement because OSGLI does not maintain data regarding a VGLI insured's marital status. We recommend that, if section 3 is enacted, it explain whether it is applicable to any change in beneficiary during these two periods of time.

Section 4 would amend 38 U.S.C. § 1967(a)(3)(B) to permit a servicemember to elect an amount of SGLI less than the maximum available provided the amount of coverage on the member is evenly divisible by \$50,000, rather than \$10,000, as currently provided by section 1967(a)(3)(B). This would simplify the administration of the SGLI program and would align with the proposal by the Administration.

Traumatic SGLI

Section 1032 of Pub. L. No. 109-13 created a program that provides an insurance benefit to servicemembers who incur traumatic injuries. The traumatic injury program provides automatic insurance for any SGLI insured who suffers a traumatic injury as prescribed by the Secretary of Veterans Affairs in collaboration with the Secretary of Defense. Under this program, payment will be made in accordance with a schedule prescribed by the Secretary of Veterans Affairs in collaboration with the Secretary of Defense based on the severity of the

condition and in an amount that is not less than \$25,000 and not more than \$100,000. The maximum amount payable for all injuries resulting from the same traumatic event is \$100,000, and if a servicemember suffers more than one loss as a result of a traumatic injury, payment will be made in accordance with the prescribed schedule for the single loss providing the highest payment. Premiums for disability insurance coverage will be deducted from a servicemember's basic or other pay, less any costs traceable to the extra hazards of duty. This benefit is effective on December 1, 2005; however, any servicemember experiencing a traumatic injury between October 7, 2001, and December 1, 2005, is eligible to receive the insurance benefit if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

We welcome the addition of this valuable benefit to the package of SGLI benefits currently available to members of the uniformed services and their families. We believe this law will help to reduce the financial burden and mental strain on servicemembers and their families following a traumatic and often life-changing injury. Immediately following enactment of Pub. L. No. 109-13, the VA Insurance Service met with DOD and Prudential Insurance Company of America to discuss implementation of the new program. At this point, we do not know whether there are any issues that would need to be resolved through amendment to section 1032. We hope to be able to point out to the Subcommittee any such issues prior to the December 1, 2005, effective date of this legislation.